

## **§ 946.7**

constructive notice prior to the date the property became abandoned that he or she was entitled to file a claim pursuant to § 946.2 or § 946.4. Publication of notice pursuant to § 946.4 provides constructive notice unless a claimant can demonstrate circumstances which reasonably precluded his access to the published notice.

[53 FR 6986, Mar. 4, 1988, as amended at 63 FR 8126, Feb. 18, 1998]

### **§ 946.7 Submission of claims.**

Claims submitted pursuant to this part must be submitted on Postal Service Form 1503 which may be obtained from the Inspector in Charge who has custody of the property.

### **§ 946.8 Determination of claims.**

Upon receipt of a claim under this part, the Postal Inspection Service must conduct an investigation to determine the merits of the claim. The results of the investigation must be submitted to the Chief Postal Inspector or delegate who must approve or deny the claim by written decision, a copy of which must be forwarded to the claimant by certified mail. If the claim is approved, the procedures to be followed by the claimant to obtain return of the property, or its determined value, must be stated. If the claim is denied, the decision must state the reasons therefor.

### **§ 946.9 Reconsideration of claims.**

A written request for reconsideration of denied claims may be submitted within 10 days of the postmarked date of the mailing denying the claim. Such requests must be addressed to the Chief Postal Inspector or delegate and must be based on evidence recently developed or not previously presented.

### **§ 946.10 Record retention.**

Records regarding property subject to this part will be retained for a period of 3 years following return of the property to its owner or a determination that the property is abandoned.

### **§ 946.11 Disposition of property declared abandoned.**

Property declared abandoned, including cash, and proceeds from the sale of property subject to this part may be

## **39 CFR Ch. I (7–1–14 Edition)**

shared by the Postal Inspection Service with federal, state, or local law enforcement agencies. Unless the Chief Postal Inspector determines that cash or the proceeds of the sale of the abandoned property are to be shared with other law enforcement agencies, such cash or proceeds shall be deposited in the Postal Service Fund established by 39 U.S.C. 2003. The authority to make this determination may be delegated by the Chief Postal Inspector.

[59 FR 29372, June 7, 1994]

## **Rules of Procedure Before the Judicial Officer**

### **PART 951—PROCEDURE GOV- ERNING THE ELIGIBILITY OF PER- SONS TO PRACTICE BEFORE THE POSTAL SERVICE**

#### **Sec.**

951.1 Authority for rules.

951.2 Eligibility to practice.

951.3 Persons ineligible for admission to practice.

951.4 Authorization of appearance may be required.

951.5 Complaint of misconduct.

951.6 Censure, suspension or disbarment; grounds.

951.7 Notice of disbarment; exclusion from practice.

951.8 Ex parte communications.

AUTHORITY: 39 U.S.C. 204, 401.

SOURCE: 36 FR 11562, June 16, 1971, unless otherwise noted.

#### **§ 951.1 Authority for rules.**

The Judicial Officer promulgates these rules pursuant to authority delegated by the Postmaster General.

#### **§ 951.2 Eligibility to practice.**

(a) Any individual who is a party to any proceeding before the Judicial Officer, the Board of Contract Appeals or an Administrative Law Judge may appear for himself or by an attorney at law.

(b) The head of any department of the Postal Service may establish such special rules and regulations pertaining to eligibility to practice before such department as he may deem to be necessary or desirable.

(c) Generally, except as provided in § 951.3, any attorney at law who is a

## United States Postal Service

## § 951.6

member in good standing of the Bar of the Supreme Court of the United States or of the highest court of any State, District, Territory, Protectorate or Possession of the United States, or of the District of Columbia, and is not under any order of any court or executive department of one of the foregoing governmental entities suspending, enjoining, restraining, disbarring, or otherwise restricting him in the practice of law may represent others before the U.S. Postal Service.

(d) When any person acting in a representative capacity appears in person or signs a paper in practice before the Postal Service his personal appearance or signature shall constitute a representation to the Postal Service that under the provisions of this part and the law he is authorized and qualified to represent the particular party in whose behalf he acts. The Postal Service does not generally take formal action or issue any certificate to show that an individual is eligible to practice before it. (See § 951.4.)

### **§ 951.3 Persons ineligible for admission to practice.**

(a) No person disbarred from practice before the Postal Service or in any other executive department of any of the governmental entities mentioned in § 951.2(c) will be eligible to practice before the Postal Service until said order of disbarment shall have been revoked.

(b) Any person who, subsequently to being admitted to practice before the Postal Service, is disbarred by any governmental entity mentioned in § 951.2(c) shall be deemed suspended from practice before the Postal Service during the pendency of said order or disbarment.

(c) No person who has been an attorney, officer, clerk, or employee in the Postal Service will be recognized as attorney for prosecuting before it or any office thereof any case or matter which he was in anywise connected while he was such attorney, officer, clerk, or employee.

(d) No person coming within the prohibitions of 18 U.S.C. 203, 205, or 207, will be recognized as attorney before the Postal Service or any office thereof.

### **§ 951.4 Authorization of appearance may be required.**

The Judicial Officer, the head of any department of the Postal Service or any Administrative Law Judge may require any person to present satisfactory evidence of his authority to represent the person for whom he appears.

### **§ 951.5 Complaint of misconduct.**

(a) If the head of any department of the Postal Service has reason to believe, or if complaint be made to him, that any person is guilty of conduct subjecting him to suspension or disbarment, the head of such office shall report the same to the Judicial Officer.

(b) Whenever any person submits to the Judicial Officer a complaint against any person who has practiced, is practicing or holding himself out as entitled to practice before the Postal Service, the Judicial Officer may refer such complaint to the Chief Inspector for a complete investigation and report.

(c) At any time, the Judicial Officer may refer the complaint to the General Counsel for the preparation of formal charges to be lodged against and served upon the person against whom the complaint has been made.

### **§ 951.6 Censure, suspension or disbarment; grounds.**

(a) The Judicial Officer may censure, suspend or disbar any person against whom a complaint has been made and upon whom charges have been served as provided in § 951.5 if he finds that such person:

(1) Does not possess the qualifications required by § 951.2;

(2) Has failed to conform to standards of ethical conduct required of practitioners at the Bar of any court of which he is a member;

(3) Represents, as an associate, an attorney who, known to him, solicits practice by means of runners or other unethical methods;

(4) By use of his name, personal appearance, or any device, aids or abets an attorney to practice during the period of his suspension or disbarment, such suspension or disbarment being known to him;

(5) Displays toward the Judicial Officer, Board of Contract Appeals or any

## § 951.7

Administrative Law Judge assigned to the Postal Service, conduct which, if displayed toward any court of any State, the United States, any of its Territories or the District of Columbia, would be cause for censure, suspension or disbarment; or

(6) Is otherwise guilty of misconduct or lacking in character or professional integrity.

(b) Before any person shall be censured, suspended or disbarred, he shall be afforded an opportunity to be heard by the Judicial Officer on the charges made against him. The General Counsel or his designee shall prosecute such cases.

(c) In the event the Judicial Officer is unavailable for any reason, he may assign complaints of misconduct to the Associate Judicial Officer, an Administrative Law Judge appointed pursuant to the provisions of the Administrative Procedure Act, an Administrative Judge appointed pursuant to the provisions of the Contract Disputes Act of 1978, or some other disinterested member of the headquarters staff of the Postal Service recommended by the Deputy Postmaster General, for the determinations required by § 951.5, the conduct of the hearings, and the decision to censure, suspend, or debar persons as provided herein.

[36 FR 11562, June 16, 1971, as amended at 51 FR 16517, May 5, 1986]

### § 951.7 Notice of disbarment; exclusion from practice.

Upon the disbarment of any person, notice thereof will be given to the heads of the departments of the Postal Service and to the other Executive Departments, and thereafter, until otherwise ordered, such disbarred persons will not be entitled to practice before the Postal Service or any department thereof.

### § 951.8 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d) and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

[42 FR 5357, Jan. 28, 1977]

## 39 CFR Ch. I (7–1–14 Edition)

### PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS

Sec.

- 952.1 Authority.
- 952.2 Scope.
- 952.3 Informal dispositions.
- 952.4 Office business hours.
- 952.5 Complaints.
- 952.6 Interim impounding.
- 952.7 Notice of docketing and answer.
- 952.8 Service.
- 952.9 Filing documents for the record.
- 952.10 Answer.
- 952.11 Default.
- 952.12 Amendment of pleadings.
- 952.13 Continuances and extensions.
- 952.14 Hearings.
- 952.15 Change of place of hearings.
- 952.16 Appearances.
- 952.17 Presiding officers.
- 952.18 Evidence.
- 952.19 Subpoenas.
- 952.20 Witness fees.
- 952.21 Discovery.
- 952.22 Transcript.
- 952.23 Proposed findings and conclusions.
- 952.24 Decisions.
- 952.25 Exceptions to initial decision or tentative decision.
- 952.26 Judicial Officer.
- 952.27 Motion for reconsideration.
- 952.28 Orders.
- 952.29 Modification or revocation of orders.
- 952.30 Supplemental orders.
- 952.31 Computation of time.
- 952.32 Official record.
- 952.33 Public information.
- 952.34 Ex parte communications.

AUTHORITY: 39 U.S.C. 204, 401, 3005, 3012, 3016.

SOURCE: 76 FR 36320, June 22, 2011, unless otherwise noted.

#### § 952.1 Authority.

These rules of practice are issued by the Judicial Officer of the United States Postal Service (see § 952.26) pursuant to authority delegated by the Postmaster General, and in accordance with 39 U.S.C. 3005, and are governed by the Administrative Procedure Act, 5 U.S.C. 551, *et seq.*

#### § 952.2 Scope.

These rules of practice shall be applicable in all formal proceedings before the Postal Service under 39 U.S.C. 3005, including such cases instituted under prior rules of practice pertaining to